

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

No. 2:18-cv-0939 (MJP)

**MOTION TO RE-NOTE/NOTE ALL
PENDING MOTIONS FOR THE SAME
DATE AND CONSOLIDATE FOR ORAL
ARGUMENT**

NOTING DATE: JULY 20, 2018

Defendants respectfully move to re-note Plaintiffs' Motion for Expedited Discovery (Dkt. 15) until the same date as Defendants' motion to dismiss, transfer, or hold Plaintiffs' claims (Dkt. 22). On June 26, 2018, the Plaintiffs ("the States") filed this suit for declaratory and injunctive relief. Dkt. 1. Less than a week later, the States moved for expedited discovery and regular status conferences, *see* Dkt. 15. The States, treating their filing as a second Friday motion, noted the hearing for July 13, 2018.¹ In addition to responding to the States' motion for expedited briefing, Defendants moved this Court to dismiss, or, alternatively, transfer or stay this Court's proceedings pending the resolution of the nationwide class action in *Ms. L. v. ICE*, No. 18-cv-428 (S.D. Cal.). Defendants' motion is a fourth-Friday motion, and pursuant to Local Civil Rule 7(d)(3), is noted for August 3, 2018. Defendants now seek to re-note the States' motion for expedited discovery for hearing on the same date as Defendants' motion. Defendants' counsel met and conferred with the States' counsel regarding this motion—Plaintiffs oppose this motion. In light of the States' concern that their motion be considered expeditiously, Defendants propose they their motion be re-noted for hearing earlier than August 3. Defendants therefore request that both motions be noted for July 27, 2018, or on another date convenient to the Court, and any briefing deadlines be adjusted accordingly, so that both motions, which, as explained below, are intertwined, may be noted and decided on the same date.

Local Civil Rule 7(1) allows the Court to re-note a pending motion to "ensure compliance with applicable court rules or for other reasons." This Court should exercise its discretion to hear both motions at the same time because it will serve the interests of justice. The Court has inherent discretion to control the disposition of the cases on its docket in a manner that will promote economy of time and effort for itself, for counsel, and for litigants. *See, e.g., Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936); *Mediterranean Enters., Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983) (noting the trial court possesses the inherent power to control its own docket and calendar). Nothing prevents this Court from considering both motions together. *See, e.g., Garo v. Global Credit & Collection Corp.*,

¹ Because the Court has not yet set any deadlines and the Rule 26(f) conference has yet to take place, Defendants dispute Plaintiffs' characterization of their motion as a second-Friday motion, as one they seeks to move a deadline. *See* LCR 7(d). Rather, Plaintiffs motion should be construed as a third-Friday motion, with a noting date of July 20, 2018.

2010 WL 5108605 (D. Ariz. Dec. 9, 2010) (determining multiple motions, including motion to dismiss for lack of subject matter jurisdiction); *Tavares v. Bruckner*, No. 10-cv-5922, 2011 WL 1988449 (W.D. Wash. May 2, 2011) (denying plaintiff's motion for summary judgment and granting defendant's motion to dismiss); *Grondal v. United States*, 682 F. Supp. 2d 1203 (E.D. Wash. 2010) (deciding six motions, including defendants' motion to dismiss for lack of subject matter jurisdiction and plaintiffs' motions for summary judgment).

The motions should be heard together because, as explained in greater detail in both the Government's opposition to the discovery motion and its motion to dismiss, transfer, or stay, Dkt. 21 (Defendants' Opp. To States' Mot. for Expedited Discovery), and Dkt. 22 (Defendants' Mot. to Dismiss, Transfer, or Hold Case), there is significant overlap in the issues raised by the States' and Defendants' motions, as well as, the significant overlap in issues between the States' case and the *Ms. L.* case that could potentially result in inconsistent rulings on procedural, discovery, and substantive issues. *See* Dkt. 1, 15, 21, and 22. First, the issue of States' standing is relevant to the disposition of their motion for expedited discovery. *See* Dkt. 21. Because the States' claims are non-justiciable, they cannot demonstrate the requisite good cause necessary for the expedited relief they seek where there are threshold questions about all of their claims. *See* Dkt. 21. Thus, the States' motion for expedited discovery should not be considered before the Court determines whether the States have standing to bring these claims in the first place. *See* Dkt. 21. Second, there is significant overlap between the issues raised and the relief sought in the States' case and the claims being litigated in *Ms.*, where the individuals whose interests the States invoke have secured nationwide class certification and an injunction requiring reunification with their children. *See* Dkt. 22. If the States' motion is heard before the Government's motion, the outcome could serve to interfere with the orderly administration of the *Ms. L.* class action, its injunction, and potentially risk inconsistent adjudications and obligations tied to the same claims. *See* Dkt. 21 and 22. And finally, because the arguments raised in the Government's motion, directly implicate the propriety of the States' request for expedited discovery the Court should note both motions for the same date and hold a consolidated hearing on both motions should a hearing be necessary. *See Levias v. Pac. Maritime Ass'n*, No. C09-302 RSL, 2010 WL

2217839, at *3 (W.D. Wash. May 28, 2010) (granting the plaintiffs’ motion to renote Defendants’ summary judgment motion, where the “request [was] reasonable and warranted under the circumstances”). Given the overlapping and intertwined issues presented in both motions, consolidation of the hearing dates makes sense and will conserve the resources of both this Court and the parties. Doing so will avoid the inefficiency of duplicative hearings, and will ensure that this Court has relevant information before it when deciding Plaintiffs’ motion so that it does not issue a decision that risks conflicting with the *Ms. L.* litigation.

Accordingly, Defendants seek a brief continuance of the hearing date on the States’ motion for expedited discovery in order to allow the parties to consolidate both parties’ motions for the same noting day and a hearing, if any, on the parties’ overlapping motions. Because consolidation would serve the interests of all, Defendants respectfully ask that the Court re-note Plaintiffs’ hearing date to July 27, or any other date convenient for the Court.

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1 DATED: July 11, 2018

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CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2018, I electronically transmitted the foregoing document to the Clerk's Office using the U.S. District Court for the Western District of Washington's Electronic Document Filing System (ECF), which will serve a copy of this document upon all counsel of record.

By: /s/ Nicole N. Murley
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The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants,

No. 2:18-cv-0939 (MJP)

**[PROPOSED] ORDER ON
DEFENDANTS' MOTION TO RE-
NOTE/NOTE ALL PENDING
MOTIONS FOR THE SAME
DATE AND CONSOLIDATE FOR
ORAL ARGUMENT**

Before the Court is Defendants' Motion to Re-note/Note all Pending Motions for the Same Date and Consolidate for Oral Argument. Having considered the motion, the Court hereby GRANTS the motion and re-notes both Plaintiffs' Motion for Expedited Discovery and Regular Status Conferences and Defendants' Defendants' Motion to Dismiss, or, Alternatively, Transfer Venue, or, Alternatively, Hold the Case in Abeyance for July 27, 2018.

Dated: July _____, 2018

HONORABLE MARSHA J. PECHMAN
United States District Judge

[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION TO RENOTE
Case No. 2:18-cv-0939 (MJP)

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[PROPOSED] ORDER GRANTING
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